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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,003	01/21/2004	Mark Neuhalfen	2004-0017	4517
<div>7590 09/15/2008</div> <div>Robert F. Frijouf Frijouf, Rust & Pyle, P.A. 201 East Davis Boulevard Tampa, FL 33606</div> <div>EXAMINER NGO, LIEN M</div> <div>ART UNIT 3754 PAPER NUMBER</div> <div>MAIL DATE 09/15/2008 DELIVERY MODE PAPER</div>				

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/762,003

Applicant(s)

NEUHAFEN, MARK

Examiner

LIEN TM NGO

Art Unit

3754

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 38-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/30/08 has been entered.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 38-41, 47 and 48 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Beard (4,513,889). Beard discloses, in figs. 2, a mounting cup 29 comprising a sidewall, a peripheral rim, a bottom wall, and a central turret formed as one-piece unit; the side wall having a second region 33 and a bottom wall 28 being located radially inwardly relative to a first region adjacent to peripheral rim; and an intermediate wall extending generally inwardly toward the axis of symmetry of the mounting cup interconnecting the first region to the second region of the mounting cup.

The statement of a recitation of the intended use of "a mounting cup for mounting an aerosol valve for ... from a collapsible container", " for securing the collapsible container to said mounting cup", etc. have been carefully considered, but deemed not to impose any structural limitations of the claims distinguish over the mounting cup of Youel, which is capable of being used as claimed as one desires to do so.

The claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, and then it meets the claim.

3. Claims 38-41, 47 and 48 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bettison, Jr. (5,917,214). Bettison, Jr. discloses, in figs. 26, a mounting cup 16 comprising a sidewall, a peripheral rim, a bottom wall, and a central turret formed as one-piece unit; the side wall having a second region and a bottom wall being located radially inwardly relative to a first region adjacent to peripheral rim; and an intermediate wall extending generally inwardly toward the axis of symmetry of the mounting cup interconnecting the first region to the second region of the mounting cup.

The statement of a recitation of the intended use of "a mounting cup for mounting an aerosol valve for ... from a collapsible container", " for securing the collapsible container to said mounting cup", etc. have been carefully considered, but deemed not to impose any structural limitations of the claims distinguish over the mounting cup of Youel, which is capable of being used as claimed as one desires to do so.

The claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

4. Claims 38-42, 47 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Sullivan (4,375,743). Sullivan discloses, in fig. 2, a mounting cup 20 comprising a sidewall, a peripheral rim, a bottom wall, and a central turret formed as one-piece unit; the side wall having a second region and a bottom wall being located radially inwardly relative to a first region adjacent to peripheral rim; and an intermediate wall extending generally inwardly toward the axis of symmetry of the mounting cup interconnecting the first region to the second region of the mounting cup.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 43-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Youel or Bettison, Jr. or Sullivan in view of Giggard (4,185,758). Giggard teaches a mounting cup includes a first polymeric bond material 18 laminated on the mounting surface of mounting cup; a second polymeric bond material located on a collapsible container

(laminated polyester, .col. 2, lines 12-15); and said first polymeric bond material bonding to said second polymeric bond material by heating for securing the collapsible container to said mounting cup.

Therefore, It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a polymeric bond material laminated on the mounting surface of mounting cup and the collapsible bag of the Youel or Bettison, Jr. or Sullivan, as taught by Giggard, in order to enhance the bonding between the mounting cup and the collapsible bag under heating.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LIEN TM NGO/
Primary Examiner, Art Unit 3754

September 11, 2008